

PART 4: ADMINISTRATION AND ENFORCEMENT

§ 14-16-4-1 AMENDMENT PROCEDURE.

(A) *Application.*

- (1) Prospective applicants should discuss their situation with the Planning Director before making application for an amendment to the map or text of this Zoning Code so as to familiarize themselves with city plans and policies.
- (2) Amendments to the map or text of this Zoning Code are initiated by application to the city on prescribed forms. Each application for an amendment to a zone map shall be accompanied by sufficient copies of an accurate site plan, building development plan, sketch, evidence of interest in property, or other related information as may be required by the city. Where a zone map amendment is proposed to be accomplished by the adoption or amendment of a sector development plan the procedures of § 14-16-4-3 shall be followed for making such application. Submission of inaccurate information with an application is grounds for denial. An application relating to unplatted land shall be accompanied by a plat delineating the boundaries of the area requested to be amended.
- (3) Applications for amendment of the official zone map may be made only by the Mayor or his designated representative, a City Councilor or a designee of the City Council or by a person with direct financial, contractual, or proprietary interest in the affected property. The Planning Commission may not be an applicant for an amendment of the official zone map.
- (4) Applications for amendment of the text of this Zoning Code may be made by the city or by any person. A City Councilor shall make such application by introduction to the City Council of an ordinance amending this Zoning Code.
- (5) An application to amend zoning for the same property or to make the same text change may not be filed within 12 months from the date of final action by the city on a prior application. However, this limitation shall not apply to applications by a representative of the city.
- (6) Application for zoning of an area to be annexed to the city is an application for a map amendment and must be filed and processed concurrently with the annexation action.

(B) *Fee.* An application fee shall be charged as follows except to representatives of the city:

- (1) Map amendment, as follows:
 - (a) No fee for the establishment of city zoning for parcels being annexed.
 - (b) Less than one acre, \$240.
 - (c) One to ten acres, \$240 plus \$55 per acre or portion thereof.
 - (d) More than ten acres, \$685 plus \$10 per acre or portion thereof.
 - (e) For an overlay zone, one-fourth of the above rates.
 - (f) Deferral requested by the applicant, \$110.

- (2) Text Amendment, \$565.
- (3) Site Development Plan:
 - (a) Original Plan approval at either the related zone map amendment public hearing or at a separate public hearing, \$385.
 - (b) Amendment approved by Planning Director without interdepartmental review, \$45.
 - (c) Amendment requiring a public hearing and interdepartmental review, \$255.
 - (d) Deferral at the request of the applicant, \$110.
- (4) When an application is withdrawn after it has been advertised for public hearing by the city, the application fee shall not be refunded. When the application is withdrawn before such advertisement, all but \$40 of the fee shall be refunded.

(C) *Hearing and Decision on Proposed Zone Map Amendments.*

- (1) Prior to hearing, the Planning Director shall request interested city departments and other agencies to comment on the application. Comments received shall be submitted to the Planning Commission.
- (2) In cases where the City Council is authorized to approve the zone map amendment the Planning Commission shall make a recommendation to the City Council as provided for at § 14-13-2-5(C)(2). Such consideration shall be at a public meeting at a time and place contained in a public notice in a daily newspaper of general circulation in the city at least 15 days before the date of the meeting. The notice shall give the location of the property, the present zoning, the requested zoning, and the place where copies of the application may be examined.
- (3) In all cases the Planning Director shall cause a staff report to be prepared that recommends approval or denial of the proposed zone map amendment and the justification for the recommendation.
- (4) The Planning Commission in cases where it is authorized to approve the zone map amendment or the City Council in cases where it is authorized to approve the zone map amendment shall consider the proposal at a public hearing at a time and place contained in a public notice published in a daily newspaper of general circulation in the city at least 15 days before the date of the hearing. The notice shall give the location of the property, the present zoning, the requested zoning, and the place where copies of the application may be examined. When the area of the zone map amendment is for 40 acres or more or where the amendment is through the adoption or amendment of a Sector Development Plan, the published notice shall include an additional display advertisement of no less than nine square inches, including a map of the area of the application.
- (5) The Planning Director shall notify the applicant by certified mail of the date, time, and place of hearing.
- (6) Applications for change to the zone map for an area of one block or less:
 - (a) The applicant must post and maintain one or more signs, as provided and where instructed by the Planning Director, at least 15 days before the date of the hearing. The applicant is responsible for removing such signs within five days after the hearing is

completed. Failure to properly post signs is grounds for deferral or denial of the application. No one, except the applicant or an agent of the applicant or the city, shall remove or tamper with any such required sign during the period it is required to be maintained under this division (a).

- (b) At the expense of the applicant, the Planning Director shall mail written notice by certified mail, return receipt requested not less than 15 days prior to the date of the hearing to all owners of property within the area proposed to be changed and to all owners of property within 100 feet of the exterior boundaries of the area proposed to be changed, excluding public right-of-way, using for this purpose the last known name and address of the owners shown in the records of the County Assessor. Notice shall include the date, time, and place of the hearing.
- (7) For applications for change to the zone map for an area of over one block but less than 40 acres where the area is not covered by a concurrently proposed Sector Development Plan, signs shall be posted as provided in division (6)(a) above.
- (8) Whenever a change in zoning is proposed for an area of more than one block, the Planning Director, at the applicant's expense, shall mail notice of the public hearing by first class mail to the owners, as shown by the records of the County Assessor, of lots or of land within the area proposed to be changed by a zoning regulation and within one hundred feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation. If the notice by first class mail to the owner is returned undelivered, the Planning Director shall attempt to discover the owner's most recent address and shall, at the applicant's expense, remit the notice by certified mail, return receipt requested, to that address.
- (9) In addition to the above notification requirements, all applicants requesting a zone map amendment for an area of any size that includes a mobile home development shall post and maintain a minimum of one sign at each entrance to the mobile home development, to include both vehicular and pedestrian entrances. These signs shall be in addition to signs required in division 6(a) above and shall be maintained throughout the time period specified in that division. Such an applicant shall also provide, at the time of application, a list of all current mobile home development residents and their addresses within the subject area proposed to be changed. Failure by an applicant to provide this list shall be grounds for rejection, deferral, or denial of the application. The Planning Director shall mail written notice of the date, time and place of the zone map amendment hearing not less than 15 days prior to the date of the hearing to all mobile home development residents within the subject area to be changed, using for this purpose the list of current residents provided by the applicant. The applicant shall reimburse the Planning Department for costs related to notification of the residents. For cases in which the mobile home development owner is not party to the zone map amendment request (e.g. the city is the applicant) and the applicant is unable to obtain a current list of residents and their addresses either from the mobile home development owner or from the County Assessor records, the sign posting requirements of this division and of division 6(a) above shall be considered adequate notice.
- (10) An advertised hearing may be continued to a time and place announced at the hearing without advertising or reposting of signs.
- (11) The Planning Commission may prescribe regulations pertaining to the submission of documentary evidence into the record of any application prior to the advertised hearing date for said application.
- (12) City ordinances, rules and regulations with respect to the standards for a zone map amendment establish the standards that must be met before an amendment may be approved.

Compliance with ordinances, rules and regulations regarding standards for a zone map amendment do not create any right to an amendment. The approval of a zone map amendment is discretionary.

- (13) The zoning map and any related Sector Development Plan may be amended at the conclusion of a public hearing on the basis of plans, ordinances and policies adopted by the City Council. In making a decision, the key findings of fact shall be stated. Additional, satisfactory submissions may be made a condition of approval. Approval of a zone more intensive than the advertised or a change of zoning outside the area advertised for hearing is possible only after appropriately readvertising and reposting signs.
- (14) When a zone map amendment which is inconsistent with an adopted Rank 2 or Rank 3 city plan is requested, the Planning Director shall not process it unless an appropriate plan amendment is also requested; the Planning Commission shall then consider the applications and make a decision on the application if it has authority to make the plan amendment, or make recommendations if the City Council has the plan-change authority.
- (15) The Planning Commission has the authority to amend the zone map except in the following situations. The City Council has the sole authority, in its discretion, to:
 - (a) Amend the zoning map imposing or eliminating SU-2 or SU-3 zoning;
 - (b) Amend the zoning map imposing or eliminating HO, UCO, or DO overlay zoning;
 - (c) Amend an SU-2 or SU-3 Sector Development Plan for an area over one block, or for any City-owned property within a Sector Development Plan that has primarily been used for a municipal purpose, including parks or properties that contains a structure such as a fire station, police substation, community center, or other facility out of which a City service has been provided, and been deemed non-essential for municipal purposes. City Council approval is not required when establishing or changing the zoning of excess rights-of-way that have been vacated;
 - (d) Amend the general preservation guidelines or design regulations for an area where HO, UCO, or DO overlay zoning has been imposed;
 - (e) Amend the zoning map as to land being concurrently annexed;
 - (f) Amend the zoning map pursuant to deciding an appeal of a zone change decision; or
 - (g) Amend zoning regulations when all the equitable owners of land which comprises at least 20% of the area proposed for change or 20% of the area within 100 feet, excluding public right-of-way, of the area proposed to be changed in zoning regulation, protest in writing the proposed change in the zoning regulation. For purposes of this division (g) the definition of a “change in zoning regulation” at § 14-16-4-4(E)(5)(d) shall apply. When there is a protest duly based on this division g, the proposed change in zoning regulation shall require approval by a majority of all Councilors. When such protest is filed after action of the Planning Commission, it shall be processed as an appeal. It is the burden of the persons asserting the applicability of this division g to show that it applies through clear and convincing evidence.
- (16) (a) An approval of a change to the zone map does not become official until the Planning Director signs Certification of Zoning and sends it to the applicant and any other person who requests such notification on the specific case. Such certification shall be signed immediately after appeal possibilities have been concluded and after all requirements

prerequisite to this certification are met. A Certification of Zoning is not required for zone map amendments for which the City is the applicant.

- (b) If such requirements are not met within six months after the date final city approval is voted, the approval is void; however, the Planning Director may extend this time limit up to an additional six months.
- (17) When only a site development plan is requested to be amended, the zoning classification is not open to amendment, whether in the original decision or on appeal.

(D) *Hearing and Decision on Proposed Ordinance Text Changes.*

- (1) Prior to City Council hearing on a text change, including those initiated by the City Council or an official of the city, an application for a text change shall generally be evaluated by the Planning Director and the Planning Commission.
- (2) The Planning Director shall notify the applicant of the date, time, and place of hearing.
- (3) The City Council may consider any application for text amendment and shall consider any such application which receives a positive recommendation from the Planning Commission. Such consideration shall be at a public hearing.

(E) *Hearing and Decision on Approval of Development Plans.* Hearings by the Planning Commission in initial approval or amendment to a Sector Development Plan or Site Development Plan specified under a zone in this Zoning Code shall abide by the provisions of division (C) of this section.

(F) *Comprehensive Review of Zone Map.* Within the one-year period immediately preceding December 1, 1980, and within each one-year period immediately preceding July 1 of every fourth year thereafter, the Planning Director, after completely reviewing the zone map then in effect, shall recommend to the Planning Commission a version to the official zone map, revised to the extent appropriate to advance the accomplishment of the master plan.

('74 Code, § 7-14-41) (Ord. 80-1975; Am. Ord. 6-1977; Am. Ord. 31-1977; Am. Ord. 45-1977; Am. Ord. 21-1978; Am. Ord. 38-1978; Am. Ord. 21-1979; Am. Ord. 53-1980; Am. Ord. 100-1980; Am. Ord. 72-1981; Am. Ord. 62-1982; Am. Ord. 23-1984; Am. Ord. 60-1986; Am. Ord. 49-1987; Am. Ord. 58-1987; Am. Ord. 73-1989; Am. Ord. 12-1990; Am. Ord. 16-1992; Am. Ord. 32-1995; Am. Ord. 23-2001; Am. Ord. 30-2002; Am. Ord. 7-2008; Am. Ord. 19-2010; Am. Ord. 2012-036)

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